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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Standardized and Enhanced	)	MM Docket No. 00-168
Disclosure Requirements for	)	
Television Broadcast Licensee	)	
Public Interest Obligations	)	

COMMENTS OF BELO

Belo hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Commission on October 5, 2000 in the above-captioned proceeding regarding proposals to "standardize and enhance" public interest disclosure requirements for analog and digital television ("DTV") broadcast licensees during and after the transition to DTV service.[1] Specifically, the NPRM proposes that television broadcasters be required to use a standardized form to provide information on how their stations serve the public interest and to make the contents of their stations' public inspection files available online.

For the reasons set forth in its comments in the recent Notice of Inquiry proceeding concerning the public interest obligations of television broadcast licensees in the digital era,[2] Belo urges the FCC to proceed cautiously during the DTV transition. Television broadcasters already are subject to significant public interest obligations not shared by cable, DBS, or other

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[1] See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Notice of Proposed Rulemaking, MM Docket No. 00-168, FCC 00-345 (rel. Oct. 5, 2000) ("NPRM").

[2] See Public Interest Obligations of TV Broadcast Licensees, Comments of Belo, MM Docket No. 99-360, FCC 99-390 (filed Mar. 27, 2000) ("NOI Comments"). Those Comments are

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competitors in the video marketplace, and provide a very substantial amount of news, public affairs, and other informational programming. Belo believes strongly that the imposition of additional public interest programming or record-keeping obligations on licensees would only serve to stifle experimentation and slow the transition to digital service. Broadcasters have voluntarily provided outstanding local public interest programming in the past and will have even greater incentive to do so in the future. Accordingly, there is simply no need to adopt the proposed "standardized and enhanced" public interest disclosure requirements.

Broadcasters Already Provide A Substantial Amount of High-Quality Public Interest Programming And Will Continue To Do So

Television stations already are subject to numerous substantial public interest obligations, such as community responsive programming requirements, complex political broadcasting rules, strict regulations regarding children's television programming, closed captioning rules, and the recently adopted video description requirements. Indeed, as the Commission noted in the NPRM, as part of their community responsive programming requirements, "television broadcast stations licensees must provide coverage of issues facing their communities and place lists of programming used in providing significant treatment of those issues (issues/programs lists)in the[ir] public inspection files on a quarterly basis."[3] These requirements, in conjunction with broadcasters' other public interest obligations, will ensure the continuing availability of a significant amount of high-quality public interest programming in the DTV era.

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hereby incorporated by reference.

[3] NPRM at 3.

Moreover, local television broadcast licensees boast a long-standing commitment to providing high-quality public interest programming on a voluntary basis. As confirmed by a recent study of six markets in which Belo owns television stations, stations in both large and small markets provide a substantial amount of high-quality non-entertainment programming (newscasts, news/information programs, public affairs shows, instructional programs, children's/educational programming, and religious programs) with minimal government intervention.[4] Specifically, the analysis revealed that four of the six Belo stations surveyed broadcast 72 or more hours of non-entertainment programming each week, while all six stations aired over 60 hours per week of such programming. The study further showed that Belo is not alone in its commitment to local news and informational programming; in each of the television markets surveyed, the major network affiliates dedicated in the aggregate approximately one-third or more of their total broadcast hours to non-entertainment programming. In addition, a significant and increasing number of television stations – including those owned by Belo, Hearst-Argyle Television, Inc., E.W. Scripps Company, Post-Newsweek, and Granite Broadcasting – voluntarily provide significant free air time to candidates for federal, state, and local offices and offer other innovative programs designed to inform their viewers.

Intense and ever-increasing competition provides a compelling incentive for broadcasters to continue to offer high quality, original, locally-oriented public interest programming in the digital age. Indeed, providing programming and public interest services responsive to community needs and interests is the unique characteristic that distinguishes television broadcasters from their competitors in today's multi-outlet information marketplace. The incentive to provide such programming and services will only increase in the digital age, as

[4] See NOI Comments at Appendix A (Non-Entertainment Programming Study (Belo) 2000).

competition for viewers heightens and stations develop programming for additional multiplexed channels.

It Would Be Imprudent To Increase The Public Interest Obligations Of Broadcasters Or Impose Burdensome Record-Keeping Requirements At This Early Stage In The Digital Era

Belo submits that, because it is impossible to determine the precise manner in which the transition to digital broadcasting will unfold, it would be imprudent for the Commission to impose additional public interest disclosure requirements – or other additional regulatory burdens – on television broadcast licensees at this time. Increased detailed and onerous regulations would serve only to stifle experimentation and slow the implementation of digital technology, in exchange for little, if any, cognizable public benefit.[5]

Moreover, the Commission's proposed public interest disclosure requirements involve elements of standardization which Belo believes would generate counterproductive incentives for broadcasters. The suggested "standardized disclosure form" – which apparently would replace the "issues/programs list" – provides a case in point. As the FCC acknowledges, "[c]urrently, the 'issues/programs list' must include a description of what issues were given significant treatment and the programming that provided the treatment as well as the time, date, duration, and title of each program[,] ... [thereby already] provid[ing] both the public and the Commission with information needed to monitor a licensee's performance in meeting its public interest obligation of providing programming that is responsive to its community."[6] The proposed standardized

[5] For example, Belo agrees that requesting "broadcasters [to] post on their Internet sites their entire public inspection file ... is neither a trivial nor an inexpensive burden...." NPRM at 27 (Separate Statement of Commissioner Michael K. Powell).

[6] NPRM at 6.

form, however, would discourage broadcaster creativity with respect to public interest programming by asking for information about a broadcaster's offerings with respect to specific defined programming categories.[7]

Further, the proposed form would effectively involve the Commission in the regulation of programming content by implicitly suggesting that the FCC prefers certain types of programming categories over others.[8] As Commissioner Furchtgott-Roth aptly states:

> [h]aving the government pick one kind of program substance over another, and then ask broadcasters to list what they have done in that particular area at the time of license renewal, necessarily involves the Commission in direct content regulation ... [and] implies that the Commission (1) favors the sort of programming that it has chosen for categorization and (2) cares whether broadcasters air it or not. These proposed changes would create governmental pressure on broadcasters to air FCC-favored content, thereby creating a soft quota on that content.[9]

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[7] Belo does not believe that the Commission's proposal to include a "catch-all" category would resolve this problem. Indeed, the fact that the FCC would choose certain types of programming for specific categorization necessarily suggests that the agency values the categorized types of programming more than others. Naturally, broadcasters would feel pressure to air programming that fit neatly into the government-favored categories.

[8] Belo notes that this and similar proposals – such as requiring broadcasters to describe their efforts to identify the programming needs of their communities – are suspiciously reminiscent of former FCC requirements abandoned in the early 1980s in favor of a "marketplace" regulatory philosophy. The Commission recognized when it eliminated formal ascertainment requirements that "present market forces provide adequate incentives for licensees to remain familiar with their communities. Moreover, future market forces, resulting from increased competition, will continue to require licensees to be aware of the needs of their communities." See The Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations, MM Docket No. 83-670, Report and Order, 98 FCC 2d 1076, 1098-99 (1984). The Company believes that proposals such as those in the NPRM may signal an ill-advised effort by the Commission to return to more direct oversight of programming content and a furtive move toward quantitative guidelines for government-favored programming categories. See NPRM at 27 (Separate Statement of Commissioner Michael K. Powell) ("[These proposals signal] the reintroduction of the ascertainment process" as part of "a slow step backwards to a subjective review of a broadcaster's public interest obligations.").

[9] NPRM at 25 (Separate Statement of Commissioner Harold W. Furchtgott-Roth). Commissioner Powell similarly asserts that "[s]electing one program category over another and

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The Mere Loan Of Second Channels During The DTV Transition Fails To Justify The Extraction of Additional Public Interest Obligations From Broadcasters

Finally, Belo submits that the temporary allotment of second channels during the digital transition does not provide any legitimate rationale for imposing additional public interest programming or disclosure requirements on television broadcast licensees.[10] In this regard, the Company notes that the FCC allocated additional spectrum to broadcasters for the purpose of simulcasting analog and digital programming during the DTV conversion in order to afford viewers time to upgrade to digital television sets. (Absent this approach, stations would be forced to switch to digital transmission overnight, leaving millions of viewers without reception.) Moreover, when the transition is complete, viewers will receive significant benefits in the form of free over-the-air services with greatly improved signal quality and expanded programming choices. Thus, the DTV transition, in and of itself, serves the public interest.

Furthermore, in order to provide such improved and expanded services, television broadcast licensees are investing approximately $6-$8 million per station for the purchase and installation of digital equipment – in addition to increased programming costs. Broadcasters nationwide are expected to spend $17 billion to upgrade to digital facilities. Belo alone expects to invest a grand total of $136 million in DTV expenditures by 2006. Yet, it is entirely speculative whether stations will be able to recover these costs and maintain even their present

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then requiring broadcasters to list the programming aired in that particular category involves the Commission in content-based regulation... [and] value judgments as to what programming [is] in the 'public interest'...." NPRM at 27 (Separate Statement of Commissioner Michael K. Powell).

[10] The Communications Act "does not support ... the adoption of public interest mandates that have no discernible nexus to the transition to digital technology. [Yet,] [t]hat seems to be the case with respect to almost every proposal made in this NPRM.... [T]he Commission seems to be using the [DTV] transition as a Trojan horse for increased regulation of broadcasters." NPRM at
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levels of profitability, much less whether they will be able to achieve enhanced profit levels. While the shift to digital transmission will increase a television station's operating expenses, it is very unlikely to increase the station's advertising revenues. Additionally, to the extent that a station seeks to expand its revenues by providing supplementary or subscription-based services, the existing statutory scheme already contemplates that it will pay sizable fees to the government. The television broadcast industry should not be required to "pay" again through the imposition of additional public interest obligations.

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25 (Separate Statement of Commissioner Harold W. Furchtgott-Roth).

Conclusion

For the reasons set forth above, Belo strongly opposes the imposition of additional public interest obligations on television broadcast licensees at this critical stage in the digital era. Television broadcasters already provide a very substantial amount of high-quality news, public affairs, and other informational programming and will have even greater incentive to do so in the future. Moreover, the imposition of additional public interest programming and reporting obligations on licensees would only serve to stifle experimentation and slow the DTV transition. Accordingly, adoption of the proposed "standardized and enhanced" public interest disclosure requirements would constitute a wholly unnecessary and highly counterproductive move by the Commission.

Respectfully submitted,

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December 18, 2000